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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 Frederick Deon Wordlaw,
11 Plaintiff,
12 v.
13 Dwight Neven, et al.,
14 Defendants.
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Case No.: 2:13-cv-927-JAD-GWF

Order Granting Defendants'
Unopposed Motion to Dismiss
[Doc. 22]

16 Plaintiff Frederick Deon Wordlaw, a former inmate at High Desert State Prison, sues
17 Defendants Dwight W. Neven, James “Greg” Cox, and Ronald Oliver for conducting an
18 allegedly “bogus” disciplinary investigation that led to Wordlaw’s placement in
19 administrative segregation and loss of 190 days of statutory good time credit. *See* Doc. 3 at
20 11-14. Although his good time credit was ultimately restored by the Department of
21 Corrections, Wordlaw claims to have spent 180 days or more in unlawful confinement due to
22 the disciplinary hearing the findings from the “bogus” investigation. *See id.* Wordlaw
23 asserts a First Amendment retaliation claim and a substantive due process claim. *See* Docs.
24 2, 5.

25 On December 12, 2013, Defendants moved to dismiss both counts. Doc. 22. They
26 argue that (1) Wordlaw failed to exhaust the prison grievance procedures available to him,
27 rendering his claims jurisdictionally barred; (2) the two-year statute of limitations expired on
28 Wordlaw’s First Amendment retaliation claim five months before he pled it; and (3)

1 Wordlaw has not stated a substantive due process claim against the defendants because he
2 has not alleged their personal participation and, regardless, these defendants enjoy qualified
3 immunity from his claims. Doc. 22.

4 Under Local Rule 7-2(b) Wordlaw—who is represented by counsel in this case—had
5 14 days to respond to Defendants’ motion. In December, Wordlaw’s counsel filed a
6 successful, unopposed motion for an extra 15 days on the representation that he was awaiting
7 return of a subpoena to the Nevada Department of Corrections that would produce
8 documents needed to properly respond to the motion. Doc. 23 at 2; Doc. 24. On January 13,
9 2014, he moved for a second extension, explaining that NDOC had produced documents to
10 him pursuant to subpoena but the disclosure came too late for him to draft a proper response
11 to the motion to dismiss. Doc. 25 at 2. He asked for an extension of the deadline to February
12 12, 2014. *Id.* Defendants filed a response to this motion, stating that while they did not
13 oppose the second continuance, because documents responsive to the subpoena had been
14 mailed to Wordlaw’s counsel on December 24, 2013, no further extensions should be
15 granted. Doc. 26 at 2. The Court granted Wordlaw’s second request but cautioned that “no
16 additional extensions of this deadline will be permitted without a showing of extraordinary
17 circumstances.” Doc. 27. Thus, the deadline for Wordlaw’s opposition—if any—to the
18 motion to dismiss was set as February 12, 2014. Doc. 27.

19 That deadline passed more than 40 days ago without any opposition from Wordlaw.
20 Under Local Rule 7-2(d), “[t]he failure of an opposing party to file points and authorities in
21 response to any motion shall constitute a consent to the granting of the motion.” Wordlaw’s
22 failure to file a response—despite having been granted two extensions of time to permit him
23 to do so—constitutes his consent to the granting of the motion. L.R. 7-2(d). Having
24 considered the arguments raised in Defendants’ motion and having no benefit of an
25 opposition, grants Defendants’ motion to dismiss, and dismisses this action.

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Conclusion

2 Accordingly, based upon the foregoing reasons and with good cause appearing and no
3 reason for delay,

4 **IT IS THEREFORE ORDERED** that Defendants' Motion to Dismiss [**Doc. 22**] is
5 **GRANTED**; this action is dismissed.

6 DATED: March 25, 2014.

JENNIFER A. DORSEY
UNITED STATES DISTRICT JUDGE